

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America

v.

Heriberto MEDINA-Plaza

Case No. 2:23-mj-343

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 29, 2023 in the county of Franklin in the
Southern District of Ohio, the defendant(s) violated:

Code Section

18 U.S.C. § 922 (g)(5)(A)

Offense Description

It shall be unlawful for any person who, being an alien is illegally or unlawfully in the United States; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce in violation of 18 U.S.C. § 922 (g)(5)(A).

This criminal complaint is based on these facts:

See the attached Affidavit of HSI Special Agent Curtis Brabender, which is fully incorporated herein.

☒ Continued on the attached sheet.

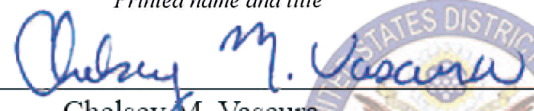

 Complainant's signature

Curtis Brabender, HSI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 6/5/2023City and state: Columbus, Ohio


 Chelsey M. Vascara
 United States Magistrate Judge

Judge's signature

Chelsey M. Vascara, US Magistrate Judge

Printed name and title



AFFIDAVIT IN SUPPORT OF APPLICATION

I, Curtis Brabender being duly sworn deposes and state:

INTRODUCTION

1. I am employed as a Special Agent (SA) with U. S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) and have been since December of 2010. In June 2011, I completed a twenty-two-week training program held at the Federal Law Enforcement Training Center in Glynco, Georgia. I am currently assigned to the HSI Columbus, Ohio office and have been since June 2017. Prior to this assignment, I was assigned to the HSI Sells, Arizona office from June 2011 to June 2017. Prior to becoming a Special Agent, I served as a uniformed officer with the United States Secret Service beginning in 2007 through 2010.
2. I have participated in narcotics, bulk cash smuggling, alien smuggling, firearms, child exploitation, and hostage investigations that include controlling informants, defendant, and witness interviews, conducting surveillance, and the preparation and service of search warrants, as well as the service of arrest warrants. These investigations have resulted in arrests of individuals who have possessed, smuggled and/or sold weapons. These various investigations have also resulted in seizures of firearms and proceeds from the distribution of those firearms.

PURPOSE OF AFFIDAVIT

3. I am participating in an investigation concerning Heriberto MEDINA-Plaza, who is suspected of being an "alien" in possession of a firearm and ammunition, as applying to 18 U.S.C. § 922(g)(5)(A).

4. The information set forth in this affidavit is based upon my knowledge, training, experience, and participation in investigations involving immigration, and weapons offenses. This information is also based on the knowledge, training, experience, and investigations conducted by fellow law enforcement officers, who have reported to me either directly or indirectly. I believe this information to be true and reliable. I know it is unlawful for any person who, being an alien is illegally or unlawfully in the United States; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce in violation of 18 U.S.C. § 922 (g)(5)(A).
5. The information contained in this affidavit is based upon my personal participation in this investigation, that of other agents and detectives assisting in this investigation, and my review of records, documents, and other information relating to this investigation.
6. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Heriberto MEDINA-Plaza did violate 18 U.S.C. § 922(g)(5)(A).

FACTS ESTABLISHING PROBABLE CAUSE

7. On May 29, 2023, at approximately 1623 hours Westerville Police Department (WPD) Officer Cerino observed a male subject later identified as Heriberto MEDINA-Plaza riding a Yamaha dirt bike, southbound on State St. without a license plate and not wearing eye protection. Officer Cerino was unable to pull out into traffic and radioed to other officers in the area. WPD officer Bogantz was in the area of 555 S. State St. when the radio traffic was transmitted. Officer Bogantz observed the dirt bike travelling south

on State St. Officer Bogantz entered traffic and observed the dirt bike stopped at the intersection of State St. and Schrock Rd. Officer Bogantz utilized his emergency lights and pulled in front of the dirt bike at the intersection of State St. and Schrock Rd. Officer Bogantz ordered the driver to get off of the dirt bike.

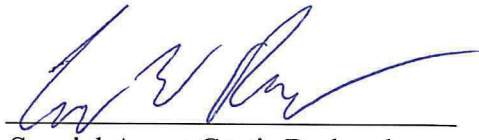
8. Officer Cerino arrived on scene and the officers moved the dirt bike out of the road to the sidewalk. MEDINA-Plaza indicated to officers during this time he did not speak English and needed a Spanish translator. Officers allowed MEDINA-Plaza to call a female friend "Elias" to conduct the translation.
9. Officer Cerino asked the friend to ask if MEDINA-Plaza had any identification on him. MEDINA-Plaza stated no. Officer Bogantz asked the friend who was interpreting to see if MEDINA-Plaza would be ok with Officer Bogantz checking him for weapons. Officers were informed that MEDINA-Plaza had a gun on him at that time. Officers placed MEDINA-Plaza in handcuffs at that time to retrieve the firearm. Officer Cerino located the firearm, a Jennings .22LR, in the right pant leg just below his knee. The gun was not in a holster barrel pointed up. Officer Myers rendered the firearm safe. Officer Myers advised the magazine was loaded with six (6) .22 caliber rounds, but no round was in the chamber at the time of recovery.
10. WPD Officer Baer arrived on scene to help conduct a Spanish interview of MEDINA-Plaza. Officer Baer speaks Spanish fluently. Officer Baer was able to obtain the biographical information of MEDINA-Plaza. MEDINA-Plaza provided the following information: Full name Heriberto MEDINA-Plaza, date of birth 04/19/2001. MEDINA-Plaza stated he lived at 2333 Taylor Ave. Columbus, OH 43211. MEDINA-Plaza stated he was born in El Capulin, Guanajuato, Mexico.
11. At approximately 1650 Officer Baer provided MEDINA-Plaza with his Miranda Rights Warnings in Spanish verbally witnessed by Officer Myers. MEDINA-Plaza subsequently agreed to speak with the officers and stated he was in the United States illegally and

blurted out he had simply found the gun. Law enforcement record checks resulted in discovering MEDINA-Plaza had previously been processed for removal in 2019.

12. MEDINA-Plaza was arrested and transported to Westerville PD for booking. While at booking Officer Baer asked MEDINA-Plaza if he had been deported previously. MEDINA-Plaza said he had been arrested at the border near Ciudad Juarez, MX.
13. MEDINA-Plaza stated he had found the gun on a dirt racing track behind the Walmart located on OH-104. MEDINA-Plaza said he found the firearm eight (8) days ago. MEDINA-Plaza said he had kept the firearm in the same condition as he found it. Officer Baer asked MEDINA-Plaza why he kept the firearm to which MEDINA-Plaza shrugged.
14. HSI SA Brabender conducted research on MEDINA-Plaza and discovered the following information regarding his immigration status. On September 3, 2019, MEDINA-Plaza was encountered by the United States Border Patrol near the Santa Teresa Port of Entry. MEDINA-Plaza was one of four individuals discovered hiding in the brush near Sunland Park, New Mexico. MEDINA-Plaza admitted to being a Mexican national. MEDINA-Plaza had no immigration documents in his possession, nor any petitions filed on his behalf. MEDINA-Plaza was issued a final order of removal on 09/03/2019. On 09/11/2019 MEDINA-Plaza was removed from the United States through the El Paso, TX port of entry. MEDINA-Plaza was issued the following Alien identification number XXXXX3378.
15. Research conducted on Jennings firearm indicates that Jennings firearms are manufactured outside of Ohio and therefore, travelled in interstate commerce to be located within Ohio.

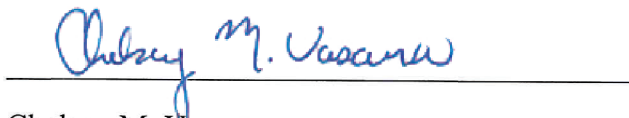
CONCLUSION

16. Based on the foregoing facts, I believe that there is there is probable cause to believe that Heriberto MEDINA-Plaza has violated 18 U.S.C. § 922(g)(5)(A) being an “alien” in possession of a firearm and ammunition. This affidavit is in support of an application for the issuance of a federal complaint and arrest warrant for Heriberto MEDINA-Plaza.



Special Agent Curtis Brabender
Homeland Security Investigations

Subscribed and sworn to before me this 5th day of June 2023.



Chelsey M. Vascara
United States Magistrate Judge